



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,081	10/11/2005	Frederick B. Hadtke	CU60208	2716

20462 7590 03/07/2007
SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY-US, UW2220
P. O. BOX 1539
KING OF PRUSSIA, PA 19406-0939

EXAMINER

LEE, LAURA MICHELLE

ART UNIT	PAPER NUMBER
----------	--------------

3724

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/553,081	Applicant(s) HADTKE ET AL.	
	Examiner Laura M. Lee	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2-5 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/11/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

2. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.

- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

3. The specification is missing the heading for the BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

Claim Objections

4. Claims 1, 2 and 5 are objected to because of the following informalities:

Claim 1, lines 4-5, recite the limitation "and a side wall extending upwardly from the periphery of the side wall". It appears that the applicant intended -- and a side wall extending upwardly from the base wall--.

Claim 1, recites the limitations "a closure... having an upper engagement part" and "a closure engagement part on a lower surface of the container." The language of the claim should be changed to better differentiate the two engagement parts, possible with more distinct descriptions of the parts or by changing one of the names to -- connecting part-- or --interfacing part-- or similar.

Claim 1 recites the limitations, "the axle engagement part" and the "engagement part of the axle". The language of the claim should be changed to better differentiate the two engagement parts, possible with more distinct descriptions of the parts or by changing one of the names to --connecting part-- or --interfacing part-- or similar.

Art Unit: 3724

Claim 1, line 11, there is a lack of proper antecedent for "the open topped compartment."

Claim 2, lines 3-4 recite the limitation "an axial hole through which the axle is threaded". The connotation is confusing, as it appears that a threaded engagement is being claimed. It is therefore suggested to change the word threaded to -- inserted -- or other similar language.

Claim 5, line 2, recites the limitation "and a side wall extending upwardly form the periphery of the side wall". It appears that the applicant intended -- and a side wall extending upwardly from the base wall--.

Claim 5, line 5, there is a lack of antecedent basis for "said lid".

Claim 5 recites the limitations, "the axle engagement part" and the "engagement part of the axle". The language of the claim should be changed to better differentiate the two engagement parts, possible with more distinct descriptions of the parts or by changing one of the names to --connecting part-- or --interfacing part-- or similar.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3724

6. Claims 3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Mortvedt (U.S. Patent 5,732,722). Mortvedt discloses a dispenser for dental floss (10) comprising a container (10) for dental floss comprising a wall (cylindrical side wall, 42), an aperture (54; Figure 3) in the wall (22) through which dental floss within the compartment may pass, and an obstructer part (hinged door, 56) which partly closes the aperture (54).

In regards to claim 5, Mortvedt discloses

a dispenser for dental floss, comprising a container (second cylinder, 40) for dental floss comprising a base wall (40) and a side wall (42) extending upwardly from the periphery of the side wall to define an open-topped compartment for a spool of dental floss (Figure 6),

an axle (central extent, 44) suitable to rotatably mount a spool of dental floss (48) thereon projecting from one of said base wall (44) or said lid (50) and the other of the lid or base wall having an axle engagement part (lid surface) thereon, the axle having an engagement part at its end (part that mates with lid 50) remote from respectively said lower wall or lid such that when the lid is hinged (43) into a closing relationship with the compartment the axle engagement part and the engagement part of the axle engaging to hold the lid in the closed relationship, the axle supporting the lid against compressive forces tending to distort the lid.

7. Claims 3 and 4 are rejected under 35 U.S.C. 102(5) as being anticipated by Klippel (GB 2333276).

Art Unit: 3724

In regards to claim 2, Kippel discloses a dental floss dispenser, comprising a container for dental floss (12/16), provided with an axle suitable to rotatably mount a spool of dental floss thereon, the spool comprising a torodial member (center shaft, Figure 6a) with an axial hole through which the axle is threaded when the spool is mounted thereon, the axle and the inner surface of the hole having parts (mating diameters) which are capable of frictionally engaging to hinder free relative rotation of the spool on the axle.

In regards to claim 3, Klippel discloses a dispenser for dental floss (12/16), comprising a container for dental floss comprising a wall (12), an aperture (20) in the wall (12)(Figure 6) through which dental floss within the compartment may pass, and an obstructer part (snap lock cover, 30) which partly closes the aperture.

In regards to claim 4, Klippel discloses a container for dental floss (12/16), comprising a container for dental floss comprising a wall (12) , an aperture (20) in the wall (12)(Figure 6) through which dental floss within the compartment may pass, a floss cutting blade (23) mounted on the compartment adjacent the outer surface of the side wall, the floss-cutting blade having a cutting edge (right side of 23) and an opposite edge (left side of 23) defining a blade axis between them, and defining a floss path between the aperture and the cutting edge (Figure 6), the blade being mounted such that the cutting edge is further from the aperture (20) than the opposite edge and the blade axis is aligned at an angle 0-45-degrees to the floss path.

Allowable Subject Matter

Art Unit: 3724

8. Claim 1 is would be allowable if rewritten or amended to overcome the objections set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to teach a dental floss dispenser with a closure for a container of an extrudible dentrifice comprising a lid with a obstracter part which partially closes the aperture when the lid is in its closing relationship with the container.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent D381,773 to Hemsley, Jr., U.S. Patent 4,706,843 to Thornton, U.S. Patent 5,180,090 to Douglas, U.S. Patent 5,076,302 to Chari, U.S. Patent 4,428,389 to Sanchez Cordero, U.S. Patent D399,603 to Hemsley Jr. et al, U.S. Patent 6,302,121 to McConnell, U.S. Patent D493,014 to Hadtke et al., U.S. Patent D293,491 to Fronske, U.S. Patent 5,386,918 to Neveras et al., U.S. Patent 4,050,648 to Tisma, and U.S. Patent 5,607,050 to Dolan et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura M. Lee whose telephone number is (571) 272-8339. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LML
03/02/2007


BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER